

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Application of Pacific Gas and Electric Company  
To Revise Its Electric Marginal Costs, Revenue  
Allocation, and Rate Design.

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Application 04-06-024  
(Filed June 17, 2004)

**SCOPING MEMO AND RULING OF ASSIGNED COMMISSIONER**

Pursuant to Article 2.5 of the Commission's Rules of Practice and Procedure (Rules), this Scoping Memo and Ruling addresses issues, schedule and other matters necessary to scope this proceeding. The Commission's Rules are available on the Commission's web site.<sup>1</sup>

**1. Background**

On November 8, 2002, Pacific Gas and Electric Company (PG&E or applicant) filed its formal application for a test year 2003 general rate case (GRC). The GRC encompassed Phase 1 to address revenue requirement issues and Phase 2 to address rate design issues. On May 27, 2004, the Commission issued its decision on Phase 1 issues, and directed that applicant file a separate rate design application. (Decision (D.) 04-05-055.)

On June 17, 2004, applicant filed this application. On July 21, 2004, two protests were filed. On August 2, 2004, applicant filed its reply to the protests.

By Notice dated July 23, 2004, the Commission set a prehearing conference (PHC) for August 20, 2004, and directed that parties meet and confer on

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<sup>1</sup> On the Commission's web page (<http://www.cpuc.ca.gov/>), click on "Laws, Rules, Procedures."

procedural and other matters in advance of the PHC. Seventeen parties met on August 10, 2004, and applicant filed a Case Management Statement on behalf of parties on August 16, 2004. On August 18, 2004, seven parties served PHC Statements. The Commission appreciates the parties' constructive and cooperative efforts, as demonstrated through the Case Management Statement, PHC Statements, and participation at the PHC. On August 20, 2004, the PHC was held to officially determine parties, create the service list, identify issues, consider the schedule, and address other matters as necessary to proceed with this application.

## **2. Categorization and Ex Parte Communication**

Applicant proposed that this proceeding be categorized as ratesetting. The Commission preliminarily categorized this matter as ratesetting. (Resolution ALJ 176-3136, dated July 8, 2004.) No party objects to this categorization.

The categorization of this proceeding is determined herein to be ratesetting. This is the Assigned Commissioner's Ruling on category, and appeals, if any, must be filed and served within 10 days. (Rule 6.4.) In a ratesetting proceeding, ex parte communications are permitted only if consistent with certain restrictions, and are subject to reporting requirements. (*See* Rules 7(c) and 7.1, and Section 1701.3(c).<sup>2</sup>)

## **3. Hearing and Record**

Applicant proposed that this proceeding include formal hearing. The Commission preliminarily determined that this matter would require hearing.

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<sup>2</sup> All Section references are to the Public Utilities Code unless noted otherwise.

(Resolution ALJ 176-3136, dated July 8, 2004.) The Case Management Statement recommends dates for hearing, and no party argues to the contrary. This Scoping Memo adopts a schedule that includes formal hearing. (Rules 6(a)(3) and 6.1(a).) The record will include testimony, exhibits, and all filed and served documents.

#### **4. Scope and Issues**

The purpose of this proceeding is to establish just and reasonable rates on an overall (total utility) revenue neutral basis using the revenue requirement determined in D.04-05-055, as may subsequently be modified in other proceedings (e.g., attrition adjustment proceeding, energy resource recovery account proceeding). At the PHC, applicant stipulated that the Commission may hear proposals other than PG&E's; may require the production of data and/or alternative showings for the record; and may, within the bounds of the record, order results that differ from the specific proposals made by applicant or other parties. In some cases, Commission practice is to issue a companion Order Instituting Investigation (OII) to provide the procedural vehicle for consideration of matters to which applicant stipulates here. In this case, the scope includes matters that would otherwise be included in a companion OII, and no companion OII is needed.

The three general subjects of this application are marginal costs, revenue allocation and rate design. Issues are identified herein based on the statement of issues included in the original application, protests, applicant's reply, the Case Management Statement, PHC statements, and matters addressed at the PHC. As a result, the issues are stated within each subject area in Attachment A. The wording is generally as proposed by a party, in the order of applicant's issues stated first. Parties may move to restate the issues or order as provided below.

Parties reserve the right to raise and address other issues that may develop through discovery or as the case proceeds. This is reasonable. Parties should identify and raise material and relevant issues as and when needed, including revisions to the scope stated herein if necessary. To promote an orderly process, however, each party seeking to modify or add an issue, or revise the scope, should do so by filing and serving a motion that seeks to revise Attachment A and/or the scope. Such motion should be filed and served by the earlier of (a) the date that an issue or change in scope is identified or (b) the date that intervenors serve their direct testimony. The motion should include everything necessary to identify the issue and scope, and justify the modification, revision or addition to the list of issues or scope.<sup>3</sup> Responses to such motion may be filed, and shall be filed within 2 days, unless a different number of days is subsequently set by the Principle Hearing Officer.

**5. Schedule, Discovery, Statement of Position,  
Comparison Exhibit, Common Outline For Briefs**

Parties agreed to a proposed schedule, which PG&E included in the Case Management Statement. PG&E subsequently proposed modifications to include public participation hearings (PPHs) and updated testimony. No objections were raised at the PHC to the schedule generally, subject to additional comments about PPHs and updates. The schedule in Attachment B is adopted, including limited modified or additional dates (e.g., PPHs, a second PHC).

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<sup>3</sup> Motions filed after that date must include specific justification for why the issue or change in scope arose so late in the proceeding, why it is a material issue or change in scope that deserves to be added or modified, whether or not it will require an adjustment in the schedule, and anything else needed for a full explanation and justification.

Consistent with law, the issues raised in this Scoping Memo shall be resolved within 18 months of the date of this Scoping Memo, or by February 27, 2006. (Pub. Util. Code § 1701.5(a).)

Applicant shall file and serve a motion with recommended dates and locations for PPHs after meeting with the Commission's Public Advisor and parties who have expressed interest in PPHs. The motion should be filed and served with sufficient time for responses; the Commission to rule on the motion, find and schedule locations, and review a draft bill insert; and for applicant to notify customers by bill insert (e.g., motion preferably filed and served not later than September 15, 2004). Responses, if any, to the motion shall be filed and served within two days of the date of the motion.

Parties have begun, and should continue without delay, to engage in discovery. Applicant's motion for protective order was addressed by separate ruling. Parties shall use the procedures contained in Resolution ALJ-164 to seek resolution of discovery disputes.<sup>4</sup>

Parties can assist the Commission with its understanding of the proceeding by preparing a Statement of Position before the commencement of hearing. The statement should summarize the party's position and recommendation on each issue as of that point in the proceeding, should state anything else necessary to summarize the party's position, and should be filed and served as provided in the adopted schedule.

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<sup>4</sup> This Resolution may be accessed via the following link:

[http://www.cpuc.ca.gov/WORD\\_PDF/FINAL\\_RESOLUTION/2538.doc](http://www.cpuc.ca.gov/WORD_PDF/FINAL_RESOLUTION/2538.doc)

Parties can also assist the Commission by preparing and submitting a comparison exhibit at the conclusion of hearing. Such exhibit should identify each issue, a summary of each party's position on each issue, references as appropriate (e.g., to exhibits, transcript pages), and any other information each party determines to be necessary and useful to present its position.

The schedule includes dates for the Statement of Position and comparison exhibit. Parties may move for different dates as appropriate.

Also, to the fullest extent reasonably possible, parties should use the same outline for briefs. This practice promotes understandability, consistency and completeness. Parties should agree on a common outline for briefs before the conclusion of hearings, and should bring any unresolved disputes to the attention of the Principal Hearing Officer before the end of hearings.

Finally, the adopted dates may change as a result of subsequent written Ruling or as directed by the Principal Hearing Officer (*e.g.*, at hearing). Absent such written Ruling or order, however, the dates up to the first day of hearing are set herein. Subsequent dates, such as the dates for briefs, will be finally determined at the conclusion of hearing, and other dates, such as the dates for comments on the proposed decision, will be governed by statute and the Commission's Rules (*e.g.*, Rules 77.2 through 77.7) or as provided in the final decision (*e.g.*, date for filing compliance advice letter).

## **6. Final Oral Argument**

A party in a ratesetting proceeding has the right to make a Final Oral Argument (FOA) before the Commission, if the FOA is requested within the time and manner specified in the Scoping Memo or later ruling. (Rule 8(d).) Parties shall use the following procedure for requesting FOA.

Any party seeking to present FOA shall file and serve a motion no later than the last date comments are due to be filed and served on the proposed decision. The motion shall state the request, the subject(s) to be addressed, the amount of time requested, recommended procedure and order of presentations, and anything else relevant to the motion. The motion shall contain all the information necessary for the Commission to make an informed ruling on the motion, providing for an efficient, fair, equitable, and reasonable FOA. If more than one party plans to move for FOA, parties shall use their best efforts to present a joint motion, including a joint recommendation on procedure, order of presentations, and anything else relevant to the motion. A response to the motion may be filed within 2 days of the date of the motion.

If a final determination is subsequently made that no hearing is required, Rule 8(d) shall cease to apply, along with a party's right to make an FOA.

#### **7. Service List, Document Website, Service and Filing**

The official service list was created at the PHC, and is now on the Commission's web page.<sup>5</sup> Parties are responsible for checking to ensure that the correct information is contained on the service list, and notifying the Commission's Process Office and other parties of corrections or ministerial changes. Substantive changes (e.g., to be added as an appearance) must be made by motion or at hearing.

A document website maintained by applicant was used for the Phase 1 GRC. Applicant proposes that it also be used in this proceeding. No party

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<sup>5</sup> The service list may be accessed via the following link:

<http://www.cpuc.ca.gov/proceedings/A0406024.htm>

objects. To reasonably minimize the burden of service, applicant's proposal is adopted. The following process will be used, which is generally consistent with that adopted in the Phase 1 Scoping Memo and is further detailed in Attachment C to this Ruling.

Electronic service will be used to the fullest extent reasonably possible by parties and the Commission. Applicant's document website will be used to facilitate service. Parties may send a "Notice of Posting" electronically in lieu of sending a copy of the document by electronic mail to the entire service list. All persons on the service list, including those listed under "Information Only," must receive the Notice of Posting. The Notice of Posting should include a brief description of the document, and should state when it was sent to PG&E for posting. The subject line of the electronic mail should reference this proceeding (A.04-06-024).

Parties are not required to provide service of a paper copy to persons on the service list unless a person granted appearance or state service status does not have an electronic mail address listed on the service list, or has specifically requested a paper copy.<sup>6</sup> It is the responsibility of each party to ensure that its information on the service list is current and accurate. All parties shall honor each request for a paper copy of a document by serving a paper copy as soon as reasonably possible. In that regard, in addition to electronic service of the

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<sup>6</sup> Each appearance and state service participant included on the service list pursuant to the PHC has an electronic mail address. Paper service is not required on any person in the information only category, even if that individual does not have an electronic mail address.



“Notice of Posting” of each document, each party shall mail one printed copy to Administrative Law Judge (ALJ) Mattson.

Documents that are subject to filing must still be filed with the Commission’s Docket Office in a manner consistent with the Commission’s requirements for filing. (For example, see Article 2 of the Rules.) Because service may be performed electronically, however, parties who do not have ready access to Commission offices where filings are accepted may file pleadings one day after the otherwise applicable due date, provided that service is accomplished on the due date. Parties taking advantage of this authorization shall refer to this Ruling so that Docket Office Examiners are alerted to the authorization, and failure to do so may result in the filing being rejected. Parties not familiar with the filing requirements should review the Commission’s Rules for all of the filing requirements.

Finally, proposed testimony prepared in advance of hearing is served on the service list but is not filed with the Docket Office. Therefore, if a party submits proposed testimony, that party need only follow the service requirements described above, including electronic service, but not the filing requirements.

## **8. Procedural Ground Rules**

The ground rules set forth in Attachment D are intended to promote an equitable, efficient and orderly hearing. These ground rules are generally the same as adopted in the Scoping Memo for the Phase 1 GRC (Application 02-11-017), with some modifications. For example, they are modified regarding written errata as recommended by applicant in its PHC Statement. As modified, these ground rules are adopted. Parties may move for other modifications or revisions as necessary.

**9. Intervenor Compensation**

The PHC was held on August 20, 2004. A customer who intends to seek an award of compensation should file and serve a notice of intent to claim compensation no later than 30 days after this PHC. (Section 1804(a)(1).)

**10. Principal Hearing Officer**

ALJ Burton W. Mattson is the Principal Hearing Officer and Presiding Officer.

**IT IS RULED** that the matters addressed in the body of this ruling are adopted including:

1. The categorization of this proceeding is ratesetting for the purposes of Article 2.5 of the Commission's Rules of Practice and Procedure (Rules), and hearing is necessary.
2. Ex parte communications are permitted with restrictions, and are subject to reporting requirements. (*See* Rules 7(c) and 7.1, and Section 1701.3(c).)
3. The record shall include testimony, exhibits, and all filed and served documents.
4. The scope of this proceeding is to establish just and reasonable rates on an overall revenue neutral basis using a revenue requirement determined in other proceedings. The scope includes proposals made, and to be made, by applicant and/or parties. It includes proposals that may be made in response to an inquiry of the Commission, Assigned Commissioner or Principal Hearing Officer, and the decision may order results within the bounds of the record that differ from any specific proposal of applicant or any party.
5. The scope, issues and schedule are as set forth in the body of this Ruling, Ordering Paragraph 4, and in Attachments A and B, unless amended by subsequent Ruling of the Assigned Commissioner or Principal Hearing Officer.
6. Motions to add, modify or revise the scope, issues or schedule may be made as provided in the body of this Ruling. Responses to such motions shall be within two days, unless a different date is set by the Principal Hearing Officer.
7. Parties should continue to engage in discovery without delay, shall use the procedures in Resolution ALJ-164 for the purposes of discovery disputes, shall file and serve a Statement of Position, shall prepare and submit a comparison exhibit, and shall use the same outline for briefs.

8. Parties shall follow the procedure stated in the body of this Ruling in making any request for Final Oral Argument.

9. Parties are responsible for notifying Process Office and other parties of corrections and changes to the information stated on the official service list, including electronic mail addresses, and ensuring that the information is current and accurate.

10. Applicant shall maintain a document website. Parties shall use the procedures and protocols stated in the body of this Ruling and in Attachment C for the document website, plus the filing and service of documents. Parties shall provide Administrative Law Judge (ALJ) Mattson a paper copy of all electronically served documents.

11. The procedural ground rules stated in Attachment D are adopted.

12. ALJ Burton W. Mattson is the Principal Hearing Officer and Presiding Officer.

Dated August 27, 2004, at San Francisco, California.

/s/ MICHAEL R. PEEVEY

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Michael R. Peevey  
Assigned Commissioner

**ATTACHMENT A  
ISSUES  
A.04-06-024**

The purpose of this proceeding is to establish just and reasonable rates on an overall, total utility-company, revenue neutral basis. These rates are to be determined by employing equitable, efficient and reasonable marginal costs, revenue allocations and rate designs. Specific issues within these subject areas are:

**1. Marginal Cost**

- 1.1 Whether or not new customer-related distribution investment costs should be included in marginal customer access costs instead of demand-related distribution capacity costs.
- 1.2 Whether or not activity-based marginal costs and an internal survey should be used to calculate marginal customer access costs for meter reading, billing, and meter services, instead of the accounting-based average-cost proxy used in previous rate cases.
- 1.3 Whether or not the discounted total investment method (DTIM) should be used to calculate demand-related transmission and distribution capacity costs.
- 1.4 Whether or not demand-related distribution capacity costs should be calculated at the division level based on distribution planning area forecasts.
- 1.5 Whether or not the customer access marginal cost should reflect the sharing of new hookup costs between PG&E and applicants for new service, resulting from the Commission's line extension proceeding.
- 1.6 Whether or not the customer access marginal cost should be based on the one-time hookup cost methodology.
- 1.7 Whether or not generation marginal costs should be separated into two components; and whether or not the generation capacity component should be based on a methodology that relies on market price estimates for the near-term and full combustion turbine fixed cost in the resource balance year.

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- 1.8 The reasonableness of calculating marginal customer hook-up costs using the “one-time hook-up” costs for new customers and “replacement” costs for existing customers.
- 1.9 The reasonableness of the load forecast underlying the DTIM for distribution investment costs in each of 18 divisions.
- 1.10 The potential for double counting of capacity prices and over-allocation of costs to the peak period by the development of generation costs for non- Department of Water Resources (DWR) power by time period based on forward market prices and new capacity construction costs.
- 1.11 Whether or not agricultural customers receive lower value service than other customer groups and whether or not such lower value service should be reflected in the calculation of agricultural rates.
- 1.12 Accurate calculation of distribution marginal costs and application of such costs to customer-funded rate discounts.
- 1.13 Accurate and consistent calculation of generation marginal cost (e.g., based on either a simple cycle gas-turbine or the same methodology used for competition transition costs for municipal departing load customers, but not both if different) and consistent application between proceedings.

**2. Revenue Allocation**

- 2.1 Whether or not applicant’s proposed revisions to distribution revenue allocation should be approved.
- 2.2. Whether or not to use generation marginal costs to allocate applicant’s generation revenue requirement.
- 2.3. Whether or not to use equal cents per kWh, varied by voltage, to allocate DWR power charges.
- 2.4. Whether or not, or to what degree, to mitigate the full cost allocation to all customer groups, including California Rates for Energy (CARE) customers.

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**3. Rate Design**

- 3.1. What are the policy and other objectives to be satisfied by rate design.<sup>7</sup>
- 3.2. Whether or not to adopt applicant's general rate design guidelines.
- 3.3. Whether or not the system average percentage method for non-CARE public purpose programs (PPP) should be revised to reflect total rates instead of frozen rate revenue.
- 3.4. Whether or not the full amount of CARE discounts should be included in the CARE surcharge rate component of PPP rates.
- 3.5. Whether or not to adopt applicant's proposed increased rates to CARE participants for the Tier 3, 4 and 5 portions of their usage.
- 3.6. Whether or not to adopt applicant's rate design proposals for each rate class to, among other things, reduce the number of tariff options, eliminate complicated rate design elements and clarify tariffs.
- 3.7. Whether or not to adopt applicant's proposed revenue allocation and rate design methods and resulting rates subject to update as revenue requirements are revised in other proceedings.
- 3.8. The efficiency and equity effects of real time pricing and other time-differentiated pricing tariffs.
- 3.9. Whether or not more dynamic pricing tariffs should be developed and offered to customers in various rate classes as a default tariff or as a series of tariff options.

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<sup>7</sup> For example, conservation, efficiency, equity, understandability, simplicity, customer acceptance, reduction of options where there are few customer benefits, rate stability, avoidance of "rate shock," rate variability to follow changes in cost, rates based on cost, rates that reflect customer value, comparability to rates of neighboring utilities or competitors, short term prices signals, long term price signals, cost sharing on an equal proportionate basis, economic development, customer retention.

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- 3.10. The level of standby reservation charges and the netting of auxiliary loads at generation stations.
- 3.11. Whether or not the methodology used to calculate the submetering discount included in rates for master meter customers is correct, and whether or not it is consistent with Commission decision(s) in R.03-03-017 and I.03-03-018.
- 3.12. Whether or not applicant's proposed changes with respect to the amount of distribution system costs are reasonable, and the amount of such costs that are collected through demand charges.
- 3.13. Whether or not the monthly charge should be increased.
- 3.14. The reasonable definition of the agricultural class.
- 3.15. Whether or not to combine six agricultural rate schedules into two schedules.

**(END OF ATTACHMENT A)**



**ATTACHMENT B**  
**SCHEDULE**  
**A.04-06-024**

<b>Item or Event</b>	<b>Date</b>
Application	6/17/04
Prehearing Conference (PHC) – 1	8/20
Scoping Memo filed and served	8/27
Office of Ratepayer Advocates serves proposed direct testimony	1/14/05
Public Participation Hearings	[1]
Intervenors serve proposed direct testimony	2/25
Applicant serves proposed rate update testimony	2/25
Last day, absent good cause, to file motion to revise scope or issues	2/25
Parties serve proposed rebuttal testimony	4/26
Parties file and serve Statement of Position and PHC Statements	5/12
PHC-2	5/17
Evidentiary Hearings begin	5/23
Evidentiary Hearing end	6/10
Comparison exhibit filed and served (e.g., 7 days after end of hearing)	6/17
Concurrent opening briefs filed and served (e.g., 28 days after end of hearing)	7/8
Concurrent reply briefs filed and served (e.g., 21 days after opening briefs)	7/29
Projected submission date (e.g., upon receipt of reply briefs)	7/29
Proposed decision (PD) filed and served (e.g., 90 days after submission)	10/27
Motions for Final Oral Argument (FOA—20 days after PD)	11/16
Comments on PD (20 days after PD filed)	11/16
Replies to motions for FOA (2 days after motions)	11/18
Reply Comments on PD (5 days after comments)	11/21
FOA	11/28
Commission decision adopted and mailed	12/1
Advice Letters filed and served (e.g., 5 days after mailing)	12/6
Rates effective	1/1/06

[1] To be set, likely between January 17 and February 18, 2005. Applicant shall file a motion with proposed dates and locations.

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**ATTACHMENT A  
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**(END OF ATTACHMENT B)**

**ATTACHMENT C**  
**DOCUMENT WEBSITE POSTING PROCEDURES**

Pacific Gas and Electric Company (PG&E) has established a dedicated electronic mail address to facilitate use of the "Document Website" for Application 04-06-024. Parties and the public can access documents posted to the "Document Website" at <http://www.pge.com>. (Select "Rates and Regulations," then "CPUC and FERC Regulatory Cases," then "Search for Case Documents." Under "Properties Search," select "GRC 2003 Ph 2.")

Each party shall send all public version documents that are required to be either filed or served to [GRC2003documents@pge.com](mailto:GRC2003documents@pge.com). The document shall be sent as an attachment to the electronic mail note. In the case of documents containing confidential material subject to Pub. Util. Code § 583 or a non-disclosure agreement, a redacted copy shall be sent to the above electronic mail address. For documents PG&E receives during normal business hours (Monday through Friday, 8:30 a.m. to 5:00 p.m.), PG&E shall post the document within three hours after receipt; for documents PG&E receives outside normal business hours, PG&E shall post the document by 11:30 a.m., the next business day. In the event that a document is not timely posted, PG&E shall promptly post the document after discovery of the error. Each party shall notify PG&E directly if a document sent to PG&E for posting is not posted consistent with these expectations.

To eliminate differences in pagination upon printing, parties should save their documents using Microsoft Office 2000/2003 (Word, Excel and Powerpoint) or Adobe Portable Document Format (.pdf). Files converted by Adobe Acrobat from other document formats are preferred to files that contain scanned images due to file size and searchability features.

**(END OF ATTACHMENT C)**

**ATTACHMENT A  
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Parties to the case who do not have access to the web shall be served with paper copies.

## **ATTACHMENT D PROCEDURAL GROUND RULES**

Experienced practitioners are typically familiar with these or similar ground rules. Nonetheless, they are stated here to promote a uniform understand as this proceeding begins.

### **Burden of Proof and Clarify of Showings**

Applicant has the burden of proof. Applicant and all parties must prepare exhibits that are written clearly and concisely. Exhibits should contain references or footnotes to explain sources as necessary. (See, for example, Decision (D.) 92-12-019, 46 CPUC2d 538 at 555 and 764-5; also see D.93-04-056, 49 CPUC2d 72 at 85-88.)

### **No Surprises**

The Commission is able to reach the most well-informed, well-reasoned decision when all parties are allowed to present their best evidence and argument. A Commission proceeding is not the place to use surprise as a litigation tactic.

### **Direct Testimony**

Each party should make its case in its direct testimony. The Commission is not sympathetic to the use of rebuttal and/or cross-examination as a substitute for a poor, weak or absent direct case.

### **Rebuttal Testimony**

Rebuttal testimony must include a specific reference to the testimony being rebutted. It is inappropriate for any party to hold back direct presentations for introduction in rebuttal testimony. Absent good cause, rebuttal testimony may not be used to present evidence that should have been introduced in the party's direct case. Good cause in this case includes updates that each party may make

**ATTACHMENT D  
PROCEDURAL GROUND RULES**

based on applicant's update (on or about February 25, 2005) to reflect updated revenue requirements, and any issues raised therein.

**Exhibit Format**

Parties must follow the requirements for exhibits, including page numbering and a blank space two inches high by four inches wide (generally in the upper right corner) to accommodate the Commission's exhibit stamp. (See Rule 70 of the Commission's Rules of Practice and Procedure.) If necessary for the exhibit stamp or other purpose, please add a cover sheet to the front of the exhibit. If a cover sheet is used, please also state a short title on the cover sheet which generally describes the document. The practice of pre-printing the docket number, a blank line for the exhibit number, and witness names(s) may be followed, but is not a substitute for the required two- by four-inch blank space to accommodate the exhibit stamp.

Exhibits should be bound on the left side or upper left-hand corner. Rubber bands and paper clips are unacceptable. Excerpts from lengthy documents should include the title page and, if necessary for context, the table of contents of the document. While Rule 2 permits a type size of no smaller than 10 points in filed documents, parties are asked to use a type face of no smaller than 12 points wherever practicable.

**Exhibit Copies**

Parties must provide an adequate number of copies. (See Rule 71.) The original and one copy of each exhibit shall be furnished to the presiding officer, and a copy shall be furnished to the reporter and to each party. The mailed paper copy may substitute for the copy otherwise furnished to the presiding

## **ATTACHMENT D PROCEDURAL GROUND RULES**

officer. Parties are responsible for having sufficient copies available in the hearing room for each party in attendance.

### **Corrections**

The practice of making corrections to exhibits on the witness stand is generally time and resource inefficient. It should be avoided to the extent possible through advance preparation of written errata. Corrections should be made in a timely manner by serving a list of the specific corrections to a previously served proposed exhibit, along with a clean corrected version of the corrected page(s). A “lined-out” or “redlined” corrected page is not required. Each corrected page should be marked with the word “revised” and the revision date, or other marking(s) as necessary to reasonably identify each page as a corrected or changed page. For good cause, but only if necessary, written errata may be brought to the hearing (rather than served before hearing) and distributed before the witness takes the stand. Only as a last resort will errata be taken orally from the witness on the stand. Exhibit corrections will likely receive the same number as the original exhibit plus a letter to identify the correction. For example, Exhibit 5-A is the first correction to Exhibit 5. Minor typographical corrections or wording changes that do not alter the substance or tenor of a document or the relief requested therein need not be made. (Rule 2.6(b).)

### **Hearing Hours**

Hearings will run from 9:00 a.m. to noon., and from 1:30 p.m. to 3:30 p.m., with a 10 minute break each hour. Upon request, and assuming that hearings are on schedule, hearings may run from 9:00 a.m. to 1:00 p.m., on Fridays.

## **ATTACHMENT D PROCEDURAL GROUND RULES**

### **Cross-Examination**

Cross-examination will be limited to the scope of the testimony or rebuttal testimony. Absent a showing of good cause, “friendly” cross-examination will not be permitted. Also absent good cause, cross-examination shall not be used for discovery. Rather, discovery, along with reasonable clarification of testimony and exhibits, should be undertaken before hearing.

It may be necessary to limit cross-examination time, as well as time for redirect and re-cross-examination. Parties shall prepare an estimate of the time necessary for cross-examination of each witness and provide these estimates no later than the second prehearing conference (i.e., the conference just before hearings begin), or as otherwise directed by the Presiding Officer.

### **Cross-Examination Exhibits**

Providing each witness time to review a new or unfamiliar document during cross-examination is generally an inefficient use of hearing time. As a result, each party intending to introduce an exhibit in the course of cross-examination should provide a copy to the witness and the witness’ counsel before the witness takes the stand with sufficient time for reasonable review of the document.<sup>8</sup> Parties need not provide advance copies of a document to be used for impeachment, to obtain a spontaneous reaction from the witness, or for other legitimate purpose.

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<sup>8</sup> Parties should make a reasonable effort to provide a copy of such document(s) to the witness and witness’s counsel or representative at least 24 hours before the witness takes the stand in order not to delay the hearing while the witness and counsel review the document(s). For good cause, the time might be reduced to the morning of the day the exhibit is to be introduced.



**ATTACHMENT D  
PROCEDURAL GROUND RULES**

**Court Reporters and the Record**

The creation of a complete and accurate record is important. To facilitate this goal, common courtesy should be extended to the court reporters and other hearing participants. For example, counsel should wait for the witness to finish his or her answer before asking another question. Similarly, the witness should wait for the whole question to be asked before answering. Counsel shall refrain from simultaneous arguments on motions and objections. Conversations at the counsel table or in the audience can be distracting to the reporter and other participants and should be minimized.

**Modifications**

For good cause, any party may move to modify these ground rules.

**(END OF APPENDIX D)**

**CERTIFICATE OF SERVICE**

I certify that I have by mail and by electronic mail this day served a true copy of the original attached Scoping Memo and Ruling of Assigned Commissioner on all parties of record in this proceeding or their attorneys of record.

Dated August 27, 2004, at San Francisco, California.

/s/ JANET V. ALVIAR

Janet V. Alviar

**N O T I C E**

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

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The Commission's policy is to schedule hearings (meetings, workshops, etc.) in locations that are accessible to people with disabilities. To verify that a particular location is accessible, call: Calendar Clerk (415) 703-1203.

If specialized accommodations for the disabled are needed, *e.g.*, sign language interpreters, those making the arrangements must call the Public Advisor at (415) 703-2074, TTY 1-866-836-7825 or (415) 703-5282 at least three working days in advance of the event.